

**Introduced by Senator Cannella****(Coauthors: Senators Fuller, Gaines, and Nielsen)**

(Coauthors: Assembly Members Bigelow, Dahle, Gray, Olsen, Perea,  
V. Manuel Pérez, and Williams)

February 22, 2013

---

An act to amend Sections 19606.1, 19614, 19620, and 19620.2 of, and to repeal Sections 19608.3 and 19620.1 of, the Business and Professions Code, to amend Sections 3954, 3965, 3965.1, and 3967 of, to repeal Sections 4051.1, 4051.2, 4057, and 4401.5 of, and to repeal and add Sections 3200, 4051, and 4053 of, the Food and Agricultural Code, and to amend Section 11011.2 of the Government Code, relating to fairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 741, as introduced, Cannella. California fairs: funding.

(1) Existing law regulates horse racing in this state and provides, among other things, for the payment and distribution of license fees in connection with horse racing meetings. Existing law establishes the Fair and Exposition Fund to, among other things, allocate moneys for the support of the network of California fairs. Existing law requires certain license fees from satellite wagering to be deposited into a separate account in the Fair and Exposition Fund, and continuously appropriates those moneys for specified purposes, including, among others, the payment of expenses incurred in establishing and operating satellite wagering facilities at fairs.

This bill would delete the provisions requiring satellite wagering license fees to be deposited into a separate account in the Fair and Exposition Fund and to be continuously appropriated for specified

purposes. The bill would instead require certain revenues paid by racing associations and fairs generated by parimutuel wagering and certain revenues from live races paid by fair racing associations as license fees to be deposited into the Fair and Exposition Fund and would require those funds to be continuously appropriated for various purposes, including, among others, capital improvements at fairgrounds. The bill would also require all funds appropriated for California fairs and expositions to be deposited into the Fair and Exposition Fund and would continuously appropriate those funds for various purposes. By continuously appropriating the funds in the Fair and Exposition Fund, the bill would make an appropriation.

(2) Existing law provides that the Department of Food and Agriculture is responsible for providing oversight of activities carried out by each California fair, including, but not limited to, conducting fiscal and performance audits of county fairs and citrus fruit fairs that are either requested by the fair or that the department deems necessary, and conducting, or causing to be conducted, annual fiscal audits and periodic compliance audits.

This bill would delete the requirement that the department conduct the audits described above and would instead require the department to provide that the books and accounts for the prior calendar year of all state-designated fairs receiving money from the Fair and Exposition Fund be examined and reviewed annually and audited once every 5 years by an independent certified public accountant or certified public accountancy firm. The bill would require a summary of the examination to be appended to the fair's annual statement of operation, and would provide that the costs of the annual review or audit be the responsibility of each fair.

(3) Existing law requires the Legislature, from the total revenue received from the Department of Food and Agriculture, to annually appropriate moneys to the department as it deems necessary for the oversight of the network of California fairs and to perform audits. Existing law continuously appropriates any of those funds that are unallocated to the Secretary of Food and Agriculture for specified purposes.

This bill would delete those provisions and instead would appropriate any unallocated balance in the Fair and Exposition Fund without regard to fiscal years for allocation by the secretary for capital outlay to California fairs for specified purposes. The bill would also specify that no more than 10% of those funds may be used during any year by the

Division of Fairs and Expositions to provide oversight and administration of the network of fairs. The bill would require the secretary to annually project the available funds from the Fair and Exposition Fund and to prepare an annual expenditure plan for review and approval by the Joint Committee on Fairs Allocation and Classification. The bill would require the secretary's recommendations to be deemed approved 30 days after they are received unless they are rejected by the committee.

(4) Existing law divides the state into agricultural districts and provides for the management of these districts by district agricultural associations. Existing law provides for a board of directors for each district agricultural association, and provides for the appointment of each director by the Governor.

This bill would authorize the Governor to remove a director for cause, upon recommendation by the board.

(5) Existing law specifies the duties and responsibilities of district agricultural associations, and requires a district agricultural association to obtain the approval of the Department of Food and Agriculture prior to exercising certain powers, including, among others, the power to sue. Existing law also requires a district agricultural association to obtain the approval of both the Department of Food and Agriculture and the Department of General Services in order to exercise certain other powers, including the power to conduct activities upon the district agricultural association's property, contract, purchase, or convey an interest in either real or personal property, or to use or manage its real estate or personal property.

This bill would revise the duties and responsibilities of the Department of Food and Agriculture and the Department of General Services with respect to district agricultural associations, and, among other things, would delete the requirement that a district agricultural association obtain the Department of Food and Agriculture's approval prior to suing. The bill would also delete the requirement that a district agricultural association obtain prior approval from both the Department of Food and Agriculture and the Department of General Services prior to conducting activities upon the district agricultural association's own property, or entering into a contract or exercising powers over its own real or personal property. The bill would require the board of directors of a district agricultural association to adopt policies and procedures for contracts, including adopting and publishing competitive bidding procedures for the award of any procurement or contract involving an

expenditure of more than \$100,000, and would require a district agricultural association to contract in accordance with those procedures. The bill would specify that the title, control, and possession of all personal property acquired, held, managed, or operated by a district agricultural association vests with the district agricultural association. The bill would delete a provision requiring the Secretary of Food and Agriculture to expend up to \$100,000 each fiscal year for an exhibit or exhibits at a fair that demonstrates the process of production and use of food and fiber, and would also delete a requirement that the secretary provide for a conference of fair judges to aid the department in prescribing regulations, and to expend up to \$15,000 for that purpose. The bill would make other conforming and related changes.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 19606.1 of the Business and Professions  
2 Code is amended to read:  
3 19606.1. (a) ~~All license fees from satellite wagering that are~~  
4 ~~deposited in the Fair and Exposition Fund~~ *revenues transferred*  
5 *pursuant to Section 19616.52 and subdivision (d) of Section 19614*  
6 ~~shall be deposited in a separate account in the fund~~ *the Fair and*  
7 *Exposition Fund* and, notwithstanding Section 13340 of the  
8 Government Code, are continuously appropriated from ~~that account~~  
9 ~~the fund~~ to the Department of Food and Agriculture, for allocation  
10 by the Secretary of Food and Agriculture, at his or her discretion,  
11 for the purposes set forth in paragraphs (1) to (6), inclusive. The  
12 concurrence of the Director of Finance shall be required for  
13 allocations pursuant to paragraphs (1) and (2). Allocations pursuant  
14 to paragraphs (3) to (6), inclusive, shall be made with the  
15 concurrence of the Joint Committee on Fairs Allocation and  
16 Classification.  
17 (1) For the repayment of the principal of, interest on, and costs  
18 of issuance of, and as security, including any coverage factor,  
19 pledged to the payment of, bonds issued or to be issued by a joint  
20 powers agency or other debt service or expense, including  
21 repayment of any advances made or security required by any

1 provider of credit enhancement or liquidity for those bonds or  
2 other indebtedness or expenses of maintaining that credit  
3 enhancement or liquidity, incurred for the purpose of constructing  
4 or acquiring improvements at a fair's racetrack inclosure, satellite  
5 wagering facilities at fairs, health and safety repair projects, or  
6 handicapped access compliance projects at fairs or for the purpose  
7 of refunding bonds or other indebtedness incurred for those  
8 purposes. As used in this paragraph, "coverage factor" means  
9 revenues in excess of the amount necessary to pay debt service on  
10 the bonds or other indebtedness, up to an amount equal to 100  
11 percent more than the amount of that debt service, which a joint  
12 powers agency, pursuant to the resolution or indenture under which  
13 the bonds or other indebtedness are or will be issued, pledges as  
14 additional security for the payment of that debt service or is  
15 required to have or maintain as a condition to the issuance of  
16 additional bonds or other indebtedness. Notwithstanding any other  
17 ~~provision of law~~, the department may also commit any funds  
18 available for allocation under Article 10 (commencing with Section  
19 19620) to complete projects funded under this paragraph in the  
20 priority described in this paragraph.

21 (2) For payment to the State Race Track Leasing Commission  
22 to be pledged for the repayment of debt necessary to construct a  
23 racetrack grandstand at the 22nd District Agricultural Association  
24 fairgrounds. This payment shall be made only if the ~~Secretary of~~  
25 ~~Food and Agriculture~~ *secretary* determines, annually, that all other  
26 pledged revenues have been applied to the repayment of that debt  
27 and have been determined by the secretary to be inadequate for  
28 that purpose.

29 ~~(3) For the payment of expenses incurred in establishing and~~  
30 ~~operating satellite wagering facilities at fairs.~~

31 ~~(4) For the support of an equipment and operating fund to~~  
32 ~~produce and display a consolidated California signal at satellite~~  
33 ~~wagering facilities and fairs.~~

34 ~~(5) For health and safety repair projects at fairs, which includes~~  
35 ~~fire and life safety improvement projects, California Code of~~  
36 ~~Regulations compliance projects, and long-term deferred~~  
37 ~~maintenance projects.~~

38 ~~(6) For the development and payment of revenue generating~~  
39 ~~projects, the establishment of pilot projects to restructure the~~

1 ~~current fair system, and for projects realizing a cost savings for~~  
2 ~~more efficient utilization of existing fair resources.~~

3 *(3) For the general support of the network of California fairs*  
4 *pursuant to the provisions of this chapter.*

5 *(4) For health and safety repair projects at fairs, including fire*  
6 *and life safety improvement projects, regulatory compliance*  
7 *projects, and long-term deferred maintenance projects.*

8 *(5) For capital improvements at fairgrounds. In making*  
9 *determinations to fund capital improvements pursuant to this*  
10 *paragraph, the secretary may grant priority status to renewable*  
11 *energy generation projects.*

12 *(6) For the payment of expenses incurred in developing and*  
13 *operating revenue generating projects at fairs, or which directly*  
14 *benefit fairs, including the payment of expenses incurred in*  
15 *establishing and operating horse racing facilities, industry training,*  
16 *the establishment of pilot projects to restructure the current fair*  
17 *system, and for projects realizing a cost savings for more efficient*  
18 *utilization of existing fair resources.*

19 ~~(b) The Secretary of Food and Agriculture~~ *secretary* may not  
20 make an allocation for purposes of paragraphs (2) to (6), inclusive,  
21 of subdivision (a) until the payments required in any fiscal year  
22 pursuant to paragraph (1) of subdivision (a) have been funded.

23 *(c) Pursuant to subdivision (a), the Joint Committee on Fairs*  
24 *Allocation and Classification shall review and concur, or not*  
25 *concur, with the secretary's determination of the allocations to be*  
26 *made pursuant to paragraphs (3) to (6), inclusive, of subdivision*  
27 *(a) in total, and the committee may not add to, or delete projects*  
28 *or line items from, the proposed allocations.*

29 ~~(d) Approval of the Joint Committee on Fairs Allocation and~~  
30 ~~Classification is deemed complete when one of the following~~  
31 ~~conditions is met:~~

32 ~~(1) The annual Budget Act is enacted.~~

33 ~~(2) If the secretary's recommendations are received by the Joint~~  
34 ~~Committee on Fairs Allocation and Classification after the~~  
35 ~~enactment of the annual Budget Act, the recommendations shall~~  
36 ~~be deemed approved 30 days after they are received unless they~~  
37 ~~are rejected by the committee.~~

38 *(d) The secretary's recommendations to the Joint Committee*  
39 *on Fairs Allocation and Classification shall be deemed approved*

1 30 days after they are received unless they are rejected by the  
2 committee.

3 (e) If the Joint Committee on Fairs Allocation and Classification  
4 does not concur with the secretary's recommendations, the  
5 secretary may submit another set of recommendations to the  
6 committee pursuant to this section.

7 (f) The payments required in any fiscal year for the purposes  
8 of paragraphs (1) to (3), inclusive, and (2) of subdivision (a) shall  
9 be made before any transfer is made the secretary may utilize any  
10 moneys pursuant to subdivision (g).

11 ~~(g) Except as otherwise provided in subdivision (f), if the~~  
12 ~~revenues deposited in the separate account exceed eleven million~~  
13 ~~dollars (\$11,000,000) in any fiscal year, the amount in excess of~~  
14 ~~eleven million dollars (\$11,000,000) shall be transferred to the~~  
15 ~~Fair and Exposition Fund for allocation in accordance with Section~~  
16 ~~19620.1.~~

17 ~~(h) All of the costs of administering the account created by~~  
18 ~~subdivision (a) shall be charged to the account.~~

19 *(g) Except as otherwise provided in subdivision (f), when the*  
20 *revenues deposited in the Fair and Exposition Fund exceed the*  
21 *amount necessary to satisfy the purposes of paragraphs (1) and*  
22 *(2) of subdivision (a), the secretary may utilize the excess amounts*  
23 *plus the amounts deposited to the credit of the Fair and Exposition*  
24 *Fund pursuant to subdivision (d) of Section 19614 and any other*  
25 *revenues deposited to the credit of the fund to make allocations*  
26 *from the fund for the purposes of Section 19620.2.*

27 SEC. 2. Section 19608.3 of the Business and Professions Code  
28 is repealed.

29 ~~19608.3.—(a) Funds allocated by the Secretary of Food and~~  
30 ~~Agriculture pursuant to paragraph (5) of subdivision (a) of Section~~  
31 ~~19606.1 for fire and life safety improvement projects, California~~  
32 ~~Code of Regulations compliance projects, and long-term deferred~~  
33 ~~maintenance projects at fairs in the northern zone shall be allocated~~  
34 ~~in accordance with a project schedule determined by the~~  
35 ~~Department of Food and Agriculture in compliance with this~~  
36 ~~section.~~

37 ~~(b) The department shall prepare a three-year schedule of these~~  
38 ~~projects which commences July 1, 1987, and shall annually update~~  
39 ~~the schedule. The schedule shall list individual project costs,~~

1 ~~contain a project description, and specify estimated project~~  
2 ~~completion dates.~~

3 SEC. 3. Section 19614 of the Business and Professions Code  
4 is amended to read:

5 19614. (a) Notwithstanding Sections 19611 and 19612, and  
6 except for an association that qualifies pursuant to Section 19612.6,  
7 for a fair conducting a live racing meeting, 1 percent of the total  
8 amount handled on live races, excluding wagering at a satellite  
9 facility, shall be retained by the fair association for payment to the  
10 state as a license fee.

11 (b) Additionally, 0.48 percent of the total amount handled on  
12 live racing, excluding wagering at a satellite facility, shall be  
13 deposited with the official registering agency pursuant to  
14 subdivision (a) of Section 19617.2, and shall thereafter be  
15 distributed in accordance with subdivisions (b), (c), and (d) of  
16 Section 19617.2.

17 (c) (1) After distribution of the applicable amounts as set forth  
18 in subdivisions (a) and (b) and the payments made pursuant to  
19 other relevant sections of this chapter, all funds remaining from  
20 the deductions provided in Section 19610 shall be distributed 47.5  
21 percent as commissions and 52.5 percent as purses. From the  
22 amount distributed as thoroughbred purses, a sum equal to 0.07  
23 percent of the total handle shall be held by the association to be  
24 deposited with the official registering agency pursuant to  
25 subdivision (a) of Section 19617.2, and shall thereafter be  
26 distributed in accordance with subdivisions (b), (c), and (d) of  
27 Section 19617.2.

28 ~~Any~~

29 (2) *Any* additional amount generated for purses and not  
30 distributed during the previous corresponding meeting shall be  
31 added to the purses at the current meeting.

32 (d) In addition to the amounts deducted pursuant to Section  
33 19610, any fair racing association shall deduct 1 percent from the  
34 total amount handled in its daily conventional and exotic  
35 parimutuel pools. The additional 1 percent shall be deposited in  
36 the Fair and Exposition Fund and is hereby appropriated for the  
37 purposes specified in ~~Section 19630~~ *Sections 19606.1 and 19620.2.*

38 SEC. 4. Section 19620 of the Business and Professions Code  
39 is amended to read:



1 19620. (a) The Legislature finds and declares that the  
2 Department of Food and Agriculture is responsible for ensuring  
3 the integrity of the Fair and Exposition Fund, administering  
4 allocations from the fund to the network of California fairs, as  
5 defined in Sections 19418 to 19418.3, inclusive, and providing  
6 oversight of activities carried out by each California fair.

7 (b) Oversight shall include, but not be limited to, the following:

8 (1) Monitoring the solvency of the Fair and Exposition Fund.

9 (2) Distributing available state resources to the network of  
10 California fairs based on criteria for state allocations approved by  
11 the Secretary of Food and Agriculture. The criteria for the  
12 distribution of available state resources to the network of California  
13 fairs shall not include a consideration of the structure that governs  
14 the fair.

15 (3) Creating a framework for administration of the network of  
16 California fairs allowing for maximum autonomy and local  
17 decisionmaking authority, and conducting, or causing to be  
18 conducted, annual fiscal ~~audits and periodic compliance audits~~  
19 *reviews*.

20 ~~(4) Conducting fiscal and performance audits of county fairs~~  
21 ~~and citrus fruit fairs that are requested by the fair that is the subject~~  
22 ~~of the audit, and that the Department of Food and Agriculture~~  
23 ~~deems to be necessary.~~

24 *(4) Requiring books and accounts for the prior calendar year*  
25 *of all state-designated fairs receiving money from the fund to be*  
26 *examined and reviewed annually and audited once every five years*  
27 *by an independent certified public accountant or certified public*  
28 *accountancy firm selected by the fair. A summary of this*  
29 *examination, certified by the selected certified public accountant*  
30 *or certified public accountancy firm, shall be appended to the*  
31 *fair's annual statement of operations, along with the accountant*  
32 *or accounting firm's recommendations, for the approval of the*  
33 *secretary. The cost of a fair's annual review or audit shall be the*  
34 *responsibility of each fair. With the approval of the secretary, two*  
35 *or more fairs may conduct or contract for a joint review or audit.*

36 (5) Guiding and providing incentives to fairs to seek matching  
37 funds and generate new revenue from a variety of sources.

38 (6) Supporting continuous improvement of fair programming  
39 to ensure that California fairs remain highly relevant community  
40 institutions.

1 SEC. 5. Section 19620.1 of the Business and Professions Code  
2 is repealed.

3 ~~19620.1. From the total revenue received by the department,~~  
4 ~~exclusive of money received pursuant to Sections 19640 and 19641,~~  
5 ~~the Legislature shall annually appropriate to the department those~~  
6 ~~sums as it deems necessary for the following purposes:~~

7 ~~(a) For the oversight of the network of California fairs receiving~~  
8 ~~money from the fund.~~

9 ~~(b) For the auditing of all district agricultural association fairs,~~  
10 ~~county fairs, and citrus fruit fairs.~~

11 SEC. 6. Section 19620.2 of the Business and Professions Code  
12 is amended to read:

13 ~~19620.2. (a) Any unallocated balance from Section 19620.1~~  
14 ~~in the Fair and Exposition Fund~~ is hereby appropriated without  
15 regard to fiscal years for allocation by the Secretary of Food and  
16 Agriculture for capital outlay to California fairs for fair projects  
17 involving public health and safety, for fair projects involving major  
18 and deferred maintenance, for fair projects necessary due to any  
19 emergency, for projects that are required by physical changes to  
20 the fair site, for projects that are required to protect the fair property  
21 or installation, such as fencing and flood protection, and for the  
22 acquisition or improvement of any property or facility that will  
23 serve to enhance the operation of the fair.

24 (b) A portion of the funds subject to allocation pursuant to  
25 subdivision (a) may be allocated to California fairs for general  
26 operational support. It is the intent of the Legislature that these  
27 moneys be used primarily for those fairs whose sources of revenue  
28 may be limited for purposes specified in this section.

29 (c) *Not more than 10 percent of the funds specified in*  
30 *subdivision (a) may be used during any year by the Division of*  
31 *Fairs and Expositions to provide oversight and administration of*  
32 *the network of California fairs pursuant to this chapter.*

33 (d) *The secretary shall annually project the available funds*  
34 *from the Fair and Exposition Fund and shall advise the Joint*  
35 *Committee on Fairs Allocation and Classification of the*  
36 *administrative budget of the Division of Fairs and Expositions*  
37 *and the additional staff and contracts necessary to develop and*  
38 *administer an operational and policy framework to oversee the*  
39 *network of California fairs and include that amount in the annual*  
40 *expenditure plan described in subdivision (e).*

1     (e) *The secretary shall prepare an annual expenditure plan for*  
2 *use of the moneys available from the Fair and Exposition Fund*  
3 *for review and approval by the Joint Committee on Fairs Allocation*  
4 *and Classification. The Joint Committee on Fairs Allocation and*  
5 *Classification shall review and concur, or not concur, with the*  
6 *spending plan in total, and shall not add to, or delete projects or*  
7 *line items from, the proposed allocation.*

8     (f) *The secretary's recommendations to the Joint Committee on*  
9 *Fairs Allocation and Classification shall be deemed approved 30*  
10 *days after they are received unless they are rejected by the*  
11 *committee.*

12     (g) *If the Joint Committee on Fairs Allocation and Classification*  
13 *does not concur with the secretary's recommendations, the*  
14 *secretary may submit another set of recommendations to the*  
15 *committee.*

16     SEC. 7. Section 3200 of the Food and Agricultural Code is  
17 repealed.

18     ~~3200. Notwithstanding any other provision of law, all funds~~  
19 ~~appropriated for California fairs and expositions pursuant to~~  
20 ~~Sections 19622, 19627, 19627.1, and subdivision (c) of Section~~  
21 ~~19627.2 of the Business and Professions Code for the 1995-96~~  
22 ~~fiscal year shall not be utilized for the purposes specified in those~~  
23 ~~sections but shall, instead, be utilized for the purposes specified~~  
24 ~~in Section 19630 of the Business and Professions Code, and may~~  
25 ~~be allocated by the Secretary of Food and Agriculture to all state~~  
26 ~~designated fairs as defined by Section 19418 of the Business and~~  
27 ~~Professions Code, for the purposes specified in Section 19630.~~

28     SEC. 8. Section 3200 is added to the Food and Agricultural  
29 Code, to read:

30     3200. (a) The Legislature finds and declares that funding for  
31 the network of California fairs is a cooperative venture and is  
32 anticipated to be generated from multiple sources, public and  
33 private. Because of the benefits that accrue to the state and to its  
34 residents by virtue of having the fair industry participate  
35 cooperatively with the state for the purpose of effectively  
36 overseeing and promoting fairs within the state, the Legislature  
37 finds and declares that the fairs shall work collectively to identify  
38 and designate new funding sources for fairs to be utilized for the  
39 benefit of all fairs in the network.

(b) Notwithstanding any other law, all funds appropriated for California fairs and expositions pursuant to this chapter or any other law shall be deposited in the Fair and Exposition Fund and are continuously appropriated as specified in Sections 19606.1 and 19620.2 of the Business and Professions Code.

(c) Notwithstanding Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3 of Title 2 of the Government Code relating to administrative costs, the California Exposition and State Fair and the fairs specified in Sections 19418.1, 19418.2, and 19418.3 of the Business and Professions Code shall only be assessed and pay a share of those costs directly related to personnel administration and no other administrative costs for services from other state agencies except costs for services rendered pursuant to specific contracts entered into with other state agencies.

SEC. 9. Section 3954 of the Food and Agricultural Code is amended to read:

3954. Each association by its name has perpetual succession. It may have a seal. An association may be sued and, ~~with approval of the department,~~ may sue, and may do any and all things necessary to carry out the powers and the objects and purposes for which the association is formed.

SEC. 10. Section 3965 of the Food and Agricultural Code is amended to read:

3965. The board may, with the approval of the department:

(a) Fix the term of office, the amount of bond, salary, and prescribe the duties of the secretary and of the treasurer.

(b) Manage the affairs of the association.

(c) Make all necessary bylaws, rules, and regulations for the government of the association.

~~(d) With the approval of the Department of General Services, arrange for and conduct, or cause to be conducted, or by contract permit to be conducted, by any other individual, institution, corporation, or association, upon its property at such time as it may deem advisable, any activity, notwithstanding any other provisions of the code.~~

~~(e)~~

(d) Delegate, as it may deem advisable, to its officers or employees any of the powers ~~which that~~ are vested in the board under ~~subdivisions subdivision (b) and (d) of this section.~~ Any such delegation of ~~powers power~~ may be revoked at any time.

SEC. 11. Section 3965.1 of the Food and Agricultural Code is amended to read:

3965.1. ~~(a) Notwithstanding subdivision (d) of Section 3965 or Section 4051, the board may, with the approval of the department, enter into the following types of contracts: arrange for and conduct, or cause to be conducted, or by contract permit to be conducted, by any other individual, institution, corporation, or association, upon its property at a time as it may be deemed advisable, any activity.~~

~~(a) Revenue generating contracts.~~

~~(b) Revenue~~ *Notwithstanding subdivision (a), revenue generating contracts involving hazardous activities, as determined by the department, as long as may not be approved by the board unless adequate insurance coverage is provided, as determined by the department in consultation with the Department of General Services.*

SEC. 12. Section 3967 of the Food and Agricultural Code is amended to read:

3967. *(a) Any director who misses three consecutive regular meetings of the board without the permission of the board is deemed to have resigned as a director from the board.*

*(b) A director may be removed for cause by the Governor, upon recommendation by the board.*

SEC. 13. Section 4051 of the Food and Agricultural Code is repealed.

~~4051. An association, with the approval of both the Department of Food and Agriculture and the Department of General Services, may do any of the following:~~

~~(a) Contract.~~

~~(b) Purchase, acquire, hold, sell, exchange, or convey any interest in real or personal property and beautify or improve that property. Any acquisition of land or other real property shall be subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).~~

~~(c) Lease, let, or grant licenses for the use of its real estate or personal property, or any portion of that property, to any person or public body for whatever purpose may be approved by the board.~~

~~(d) Use or manage its real estate or personal property, or any portion of that property, for any or all of the purposes of this section~~

1 jointly with any lessee, sublessee, or licensee, or otherwise use or  
2 manage the property in connection with the lease, sublease, or  
3 license which is made or granted.

4 (e) Lease or let its real property for public park, recreational,  
5 or playground purposes.

6 (f) Rent or permit the use of its premises for any purpose which  
7 is beneficial to the agricultural industry, including, but not limited  
8 to, the holding of sales or auctions of cattle or other livestock.

9 (g) Contract with any county or county fair association for  
10 holding a fair jointly with the county or county fair association.  
11 The joint fair is a district fair of the association.

12 (h) Make permanent improvements upon publicly owned real  
13 property adjacent to real property of the district when the  
14 improvements materially benefit the property of the district.

15 (i) Pledge any and all revenues, moneys, accounts, accounts  
16 receivable, contract rights, and other rights to payment of whatever  
17 kind, pursuant to such terms and conditions as are approved by  
18 the board. The revenues, moneys, accounts, accounts receivable,  
19 contract rights, and other rights to payment of whatever kind  
20 pledged by the association or its assignees constitute a lien and  
21 security interest which immediately attaches to the property so  
22 pledged and is effective, binding, and enforceable against the  
23 association, its successors, purchasers of the property so pledged,  
24 creditors, and all others asserting rights therein, to the extent set  
25 forth, and in accordance with, the terms and conditions of the  
26 pledge, irrespective of whether those persons have notice of the  
27 pledge and without the need for any physical delivery, recordation,  
28 filing, or further act.

29 SEC. 14. Section 4051 is added to the Food and Agricultural  
30 Code, to read:

31 4051. Subject only to the conditions specified in this chapter,  
32 an association may do any of the following:

33 (a) Contract in accordance with all of the following:

34 (1) The association shall develop, maintain, and comply with  
35 its own written policies and procedures for contracting.

36 (2) Notwithstanding any other law, in developing the policies  
37 and procedures referenced in paragraph (1), the board shall  
38 incorporate the following to apply to contracts entered into or  
39 procurement by a district agricultural association:

1 (A) To ensure the fullest competition, the board shall adopt and  
2 publish competitive bidding procedures for the award of any  
3 procurement or contract involving an expenditure of more than  
4 one hundred thousand dollars (\$100,000). The competitive bidding  
5 procedures shall include, but not be limited to, requirements for  
6 submission of bids and accompanying documentation, guidelines  
7 for the use of requests for proposals, invitations to bid, or other  
8 methods of bidding, and a bid protest procedure. The general  
9 manager on behalf of the district agricultural association shall  
10 determine whether the goods or services subject to this paragraph  
11 are available through existing contracts or price schedules of the  
12 Department of General Services. The Legislature finds and declares  
13 that fairs are a valuable community resource and recognizes that  
14 local businesses and local communities make valuable  
15 contributions to fairs that include direct and indirect support of  
16 fair programs. The Legislature further finds and declares that local  
17 businesses often provide opportunity purchases to local fairs that,  
18 for similar things available through the state purchasing program,  
19 may be purchased locally at a price equivalent to or less than that  
20 available through the state purchasing program. As used in this  
21 subdivision, “opportunity purchases” means purchases made  
22 locally, either individually or cooperatively, at a price equal to or  
23 less than the price available through the state purchasing program  
24 on or off state contract.

25 (B) The contracting standards, procedures, and rules contained  
26 in this subdivision shall also apply to any subcontract involving  
27 an expenditure of more than one hundred thousand dollars  
28 (\$100,000). The board shall establish, as part of the bidding  
29 procedures for general contracts, subcontracting guidelines that  
30 implement this requirement.

31 (C) The board is subject to the Small Business Procurement and  
32 Contract Act (Chapter 6.5 (commencing with Section 14835) of  
33 Part 5.5 of Division 3 of Title 2 of the Government Code).

34 (D) In advertising or awarding any general contract for the  
35 procurement of goods and services exceeding one hundred  
36 thousand dollars (\$100,000), the board and the general manager  
37 shall require all bidders or contractors, or both, to include specific  
38 plans or arrangements to utilize subcontracts with small business  
39 entities owned by socially and economically disadvantaged persons.  
40 The subcontracting plans shall delineate the nature and extent of

1 the services to be utilized, and those entities or individuals  
2 identified for subcontracting, if known.

3 (E) It is the intent of the Legislature in enacting this section to  
4 establish as an objective of the utmost importance the advancement  
5 of business opportunities for small business entities described in  
6 subparagraph (D) in the business activities created by a district  
7 agricultural association. In that regard, the board shall have an  
8 affirmative duty to achieve the most feasible and practicable level  
9 of participation by these small business entities in its procurement  
10 programs.

11 (b) Accept funds or gifts of value from the United States or any  
12 person to aid in carrying out the purposes of this part.

13 (c) Conduct or contract for programs, and contract for the  
14 purchase or lease of goods and services as are necessary for  
15 effectuating the purposes of this chapter, either independently or  
16 in cooperation with any individual, public or private organization,  
17 or federal, state, or local governmental agency.

18 (d) Establish and maintain a bank checking account or other  
19 financial institution account, approved by the Director of Finance  
20 in accordance with Sections 16506 and 16605 of the Government  
21 Code, for depositing funds received by the district agricultural  
22 association. Notwithstanding Section 13340 of the Government  
23 Code, all funds maintained in an account authorized by this  
24 subdivision are continuously appropriated to the board, without  
25 regard to fiscal year, to carry out this part.

26 (e) Approve the annual budget of the association and establish  
27 a program for paying vendors who contract with the district  
28 agricultural association.

29 (f) Contract with any county or county fair association for  
30 holding a fair jointly with the county or county fair association.  
31 The joint fair is a district fair of the association.

32 (g) Make or adopt all necessary orders, rules, or regulations for  
33 governing the activities of the district agricultural association.  
34 Notwithstanding Section 14, any orders, rules, or regulations  
35 adopted by the board are exempt from Chapter 3.5 (commencing  
36 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
37 Government Code. For informational purposes only, however, any  
38 order, rule, or regulation adopted by the board may be transmitted  
39 to the Office of Administrative Law for filing with the Secretary  
40 of State pursuant to Section 11343 of the Government Code.



1 (h) Operate a payroll system for paying employees, and a system  
2 for accounting for vacation and sick leave credits of employees.

3 (i) Delegate to the officers and employees of the district  
4 agricultural association the exercise of powers vested in the board  
5 as the board may deem desirable for the orderly management and  
6 operation of the association.

7 (j) Except as provided in subdivision (l), with the approval of  
8 the Department of General Services, purchase, acquire, hold, sell,  
9 or exchange, or convey any interest in real property for a period  
10 in excess of 50 years. Any acquisition of land or other real property  
11 shall be subject to the Property Acquisition Law (Part 11  
12 (commencing with Section 15850) of Division 3 of Title 2 of the  
13 Government Code).

14 (k) Make permanent improvements upon publicly owned real  
15 property adjacent to, or near the vicinity of, the real property of  
16 the district agricultural association when the improvements  
17 materially benefit the property of the association.

18 (l) Lease, let, or grant licenses for the use of its real property or  
19 any portion of that property, to any person or public body for  
20 whatever purpose as may be approved by the board. Any lease of  
21 real property for a period in excess of 20 years shall be subject to  
22 the approval of the Department of General Services as provided  
23 in subdivision (j).

24 (m) Use or manage any of its property jointly or in connection  
25 with any lessee or sublessee, for any purpose approved by the  
26 board.

27 (n) With the approval of the Department of General Services,  
28 pledge any and all revenues, moneys, accounts, accounts  
29 receivable, contract rights, and other rights to payment of whatever  
30 kind, pursuant to such terms and conditions as are approved by  
31 the board. The revenues, moneys, accounts, accounts receivable,  
32 contract rights, and other rights to payment of whatever kind  
33 pledged by the association or its assignees constitute a lien or  
34 security interest that immediately attaches to the property pledged,  
35 and is effective, binding, and enforceable against the association,  
36 its successors, purchasers of the property so pledged, creditors,  
37 and all others asserting rights therein, to the extent set forth, and  
38 in accordance with, the terms and conditions of the pledge,  
39 irrespective of whether those persons have notice of the pledge

1 and without the need for any physical delivery, recordation, filing,  
2 or further action.

3 SEC. 15. Section 4051.1 of the Food and Agricultural Code is  
4 repealed.

5 ~~4051.1. (a) Notwithstanding any other provision of law, in~~  
6 ~~accordance with procedures established by the board, the board~~  
7 ~~may enter into agreements to secure donations, memberships, and~~  
8 ~~corporate and individual sponsorships, and may enter into~~  
9 ~~marketing and licensing agreements for the receipt of money, or~~  
10 ~~services or products in lieu of money, and may employ, or create~~  
11 ~~and participate in an entity, or enter into an agreement with an~~  
12 ~~entity or person to develop, solicit, sell, and service these~~  
13 ~~agreements. The compensation for the entity or person shall be~~  
14 ~~established by the board.~~

15 ~~(b) Written notification to the department shall be required prior~~  
16 ~~to creating an entity for the activities described in this section and~~  
17 ~~prior to entering into any agreement for activities described in this~~  
18 ~~section if the agreement exceeds one hundred thousand dollars~~  
19 ~~(\$100,000) in value, exists for a period of greater than two years,~~  
20 ~~or contemplates the building of a permanent structure on fair~~  
21 ~~property. The department may, upon reasonable notice, examine~~  
22 ~~the books and records of any entity created pursuant to this section.~~

23 SEC. 16. Section 4051.2 of the Food and Agricultural Code is  
24 repealed.

25 ~~4051.2. An association shall not enter into a settlement~~  
26 ~~agreement for an amount greater than ten thousand dollars~~  
27 ~~(\$10,000) without the prior approval of the department.~~

28 SEC. 17. Section 4053 of the Food and Agricultural Code is  
29 repealed.

30 ~~4053. The Director of Food and Agriculture may make~~  
31 ~~available for the use of any association any property of the state~~  
32 ~~which is suitable for the purposes of the association and which has~~  
33 ~~been obtained by the state by gift from any county or city, or~~  
34 ~~otherwise, without cost to the state.~~

35 SEC. 18. Section 4053 is added to the Food and Agricultural  
36 Code, to read:

37 4053. Notwithstanding Section 14660.5 of the Government  
38 Code, the title, control, and possession of all personal property  
39 acquired, held, managed, or operated by a district agricultural  
40 association, including property controlled or possessed by the

1 association before the enactment of this section, vests with the  
2 association.

3 SEC. 19. Section 4057 of the Food and Agricultural Code is  
4 repealed.

5 ~~4057. The state is not liable for any premium which is offered~~  
6 ~~or award that is made, or on account of any contract which is made,~~  
7 ~~by any association.~~

8 SEC. 20. Section 4401.5 of the Food and Agricultural Code is  
9 repealed.

10 ~~4401.5. (a) The director shall expend an amount not to exceed~~  
11 ~~a total of one hundred thousand dollars (\$100,000) in any fiscal~~  
12 ~~year for any exhibit or exhibits located on any state-supported fair~~  
13 ~~demonstrating, in a creative and innovative manner, the process~~  
14 ~~of production and use of food and fiber from the producer to the~~  
15 ~~consumer in this state.~~

16 ~~(b) The director shall annually provide for a conference of fair~~  
17 ~~judges to aid the department in prescribing regulations adopted~~  
18 ~~pursuant to Section 4501. The director may expend up to fifteen~~  
19 ~~thousand dollars (\$15,000) in any fiscal year for such purposes.~~

20 SEC. 21. Section 11011.2 of the Government Code is amended  
21 to read:

22 11011.2. (a) (1) Notwithstanding any other law, including,  
23 but not limited to, Sections 11011 and 14670, except as provided  
24 in this section, the Department of General Services may lease real  
25 property under the jurisdiction of a state agency; *or* department,  
26 ~~or district agricultural association~~; if the Director of General  
27 Services determines that the real property is of no immediate need  
28 to the state but may have some potential future use to the program  
29 needs of the agency; *or* department; ~~or district agricultural~~  
30 ~~association.~~

31 (2) The Director of General Services may not lease any of the  
32 following real property pursuant to this section:

33 (A) Tax-deeded land or lands under the jurisdiction of the State  
34 Lands Commission.

35 (B) Land that has escheated to the state or that has been  
36 distributed to the state by court decree in estates of deceased  
37 persons.

38 (C) Lands under the jurisdiction of the State Coastal  
39 Conservancy or another state conservancy.

1 (D) Lands under the jurisdiction of the Department of  
2 Transportation or the California State University system, or land  
3 owned by the Regents of the University of California.

4 (E) Lands under the jurisdiction of the Department of Parks and  
5 Recreation.

6 (F) Lands under the jurisdiction of the Department of Fish and  
7 ~~Game~~ *Wildlife*.

8 (3) A lease entered into pursuant to this section shall be set at  
9 the amount of the lease's fair market value, as determined by the  
10 Director of General Services. The Director of General Services  
11 may determine the length of term or a use of the lease, and specify  
12 any other terms and conditions ~~which~~ *that* are determined to be in  
13 the best interest of the state.

14 (b) The Department of General Services may enter into a  
15 long-term lease of real property pursuant to this section that has  
16 outstanding lease revenue bonds and for which the real property  
17 cannot be disencumbered from the bonds, only if the issuer and  
18 trustee for the bonds approves the lease transaction, and this  
19 approval takes into consideration, among other things, that the  
20 proposed lease transaction does not breach a covenant or obligation  
21 of the issuer or trustee.

22 (c) (1) All issuer- and trustee-related costs for reviewing a  
23 proposed lease transaction pursuant to this section, and all other  
24 costs of the lease transaction related to the defeasance or other  
25 retirement of any bonds, including the cost of nationally recognized  
26 bond counsel, shall be paid from the proceeds of that lease.

27 (2) The Department of General Services shall be reimbursed  
28 for any reasonable costs or expenses incurred in conducting a  
29 transaction pursuant to this section.

30 (3) Notwithstanding subdivision (g) of Section 11011, the  
31 Department of General Services shall deposit into the General  
32 Fund the net proceeds of a lease entered into pursuant to this  
33 section, after deducting the amount of the reimbursement of costs  
34 incurred pursuant to this section or the reimbursement of  
35 adjustments to the General Fund loan made pursuant to Section 8  
36 of Chapter 20 of the 2009–10 Fourth Extraordinary Session from  
37 the lease.

38 (d) The Department of General Services shall transmit a report  
39 to each house of the Legislature on or before June 30, 2011, and  
40 on or before June 30 each year thereafter, listing every new lease

1 that exceeds a period of five years entered into under the authority  
2 of this section and the following information regarding each listed  
3 lease:

4 (1) Lease payments.

5 (2) Length of the lease.

6 (3) Identification of the leasing parties.

7 (4) Identification of the leased property.

8 (5) Any other information the Director of General Services  
9 determines should be included in the report to adequately describe  
10 the material provisions of the lease.

11 SEC. 22. This act is an urgency statute necessary for the  
12 immediate preservation of the public peace, health, or safety within  
13 the meaning of Article IV of the Constitution and shall go into  
14 immediate effect. The facts constituting the necessity are:

15 In order to restore the viability of California fairs as soon as  
16 possible, it is necessary that this act take effect immediately.